



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

July 29, 2020

DELIVERED BY UPS
SIGNATURE REQUIRED

Mr. Gary Layne
Chameleon, LLC
15250 Lazy Creek Road
Beaverdam, Virginia 23015

RE: **Section 308 Request for Information and**
Consent to Enter Property Request

Dear Mr. Layne:

The U.S. Environmental Protection Agency, Region III ("EPA") is following up our Request for Information pursuant to the authority granted to it under Section 308 of the Clean Water Act, 33 U.S.C § 1318 ("CWA" or "Act"). The Request for Information was sent to you on May 8, 2020 regarding the property that you own or control, located at 10426 Ashcake Road, Ashland, Hanover County, Virginia (parcel #7789-45-3668) (the "Property"). On July 21, 2020, EPA received your letter response, dated May 29, 2020. EPA staff, counsel and management carefully reviewed your letter and determined that your letter did not adequately respond to the EPA's Request for Information.

Because EPA has not received an adequate response to the Request for Information, EPA is still requesting the information and is reiterating the request at this time. EPA's prior Request for Information is attached for your reference. Your response to the Request for Information is required within **thirty calendar days** of receipt of this letter. Please forward the requested information to Ms. Katelyn Almeter as set forth in the Instructions of the enclosed document. Electronic mail is still EPA's preference for receipt of documents. If you do not have access to email, please send your response to the Region III Philadelphia Office by either UPS or FedEx, and call Katelyn Almeter by telephone to provide the tracking number.

EPA is authorized under Section 308(a) of the Act, 33 U.S.C. § 1318(a), to require owners and/or operators of point sources to provide certain information, establish records and make such reports necessary to carry out the objectives of the Act. Pursuant to Section 308 of the Act, 33 U.S.C. § 1318, you are directed to provide EPA the information requested in the enclosure no later than thirty days following receipt of this request.

You should be aware that failure to provide adequate responses to the Information Request may result in penalties or fines. Please exercise care to assure that responses are complete and accurate. Section 309(c)(2) of the Act, 33 U.S.C. § 1319(c)(2) gives EPA the authority to impose fines or criminal penalties where no response or false information is knowingly provided to the EPA.

Additionally, your May 29, 2020 letter inaccurately characterized the findings that Virginia Department of Environmental Quality (“VADEQ”) made as a result of the inspection conducted by VADEQ representatives on August 30, 2019. This inspection focused on the presence of and disturbance to surface waters located on the Property. (Please keep in mind that “surface waters” can include both stream and wetland resources.) Your letter stated, “Virginia DEQ’s onsite report acknowledges the NWI [National Wetlands Inventory] portrayal of the property is inaccurate and there were not any surface waters discovered which they claimed was the basis for their visit.” This statement is not accurate. By contrast, in VADEQ’s Notice of Violation, dated October 9, 2019 (enclosed) and addressed to you, VADEQ concluded, “During the August 30, 2019 inspection, DEQ staff observed approximately 12.1 acres of palustrine forested wetlands have been impacted by clearing, grubbing, draining, and filling activities at the property. These impacts were not authorized under a VWP Permit.”

Furthermore, during the June 4, 2020 call, the EPA representative also discussed with you EPA’s desire to conduct an inspection of the Property and requested your permission to conduct this inspection. Section 308(a) of the CWA, 33 U.S.C. § 1318(a), also provides EPA with the legal authority to conduct inspections to gather information when EPA has reason to believe that a discharge of dredged or fill material has occurred in the aquatic resources on a property resulting in a violation of Sections 301 and 404 of the CWA, 33 U.S.C. §§ 1311 and 1344. In accordance with Section 308(a) of the CWA, EPA is requesting your permission to enter, inspect, and take samples at the Property for the purposes of evaluating compliance with the CWA. EPA maintains that an inspection for the purposes of evaluating the Property for the presence of aquatic resources, including streams and wetlands and document earth-moving activities and the presence and condition of any culverts, pipe, drains, etc. are an invaluable next step in the course of this matter. To that end, EPA has enclosed a Consent to Enter Property Form for your review and signature, should you be agreeable to providing permission for Property access to EPA for purposes of conducting an inspection. You may elect to sign the permission form and return it no later than **thirty calendar days** of receipt of this letter and EPA will coordinate planning an inspection date directly with you. Failure to return the completed form within thirty calendar days of receipt of this letter will be considered denial of access to EPA staff. If access is denied, EPA reserves the right to seek access using other means authorized by the Clean Water Act, including issuance of an administrative order or application for a warrant.

I strongly encourage you to give this matter your full consideration. Should you have any questions regarding this letter or the enclosed documents, please contact Katelyn Almeter at almeter.katelyn@epa.gov or (215) 814-2797, or have your attorney contact Natalie Katz, Senior Assistant Regional Counsel, at (215) 814-2615 or katz.natalie@epa.gov. Thank you for your attention to this matter.

Sincerely,

Richard A. Rogers, Chief
Water Branch
Enforcement & Compliance Assurance Division

Enclosure (3)

cc. Lee Crowell, VADEQ (lee.crowell@deq.virginia.gov)
Bryan Jones, VADEQ (bryan.jones@deq.virginia.gov)
Julie Hamilton, USACE, Norfolk District (julie.s.hamilton@usace.army.mil)
Katelyn Almeter, EPA (almeter.katelyn@epa.gov)
Natalie Katz, EPA (katz.natalie@epa.gov)